

**CS FOR HOUSE BILL NO. 79(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 4/26/21**

**Referred: Rules**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to sport fishing operators and sport fishing guides; requiring the**  
 2   **Department of Fish and Game to prepare and submit a report; and providing for an**  
 3   **effective date."**

4   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5    \* **Section 1.** AS 16.05.340(a) is amended by adding new paragraphs to read:

- 6                   (28) Resident fishing services licenses
- 7                               (A) Resident sport fishing operator license ..... 200
- 8                               (B) Resident sport fishing guide license ..... 100
- 9                               (C) Resident sport fishing operator and guide combined license
- 10                               ..... 200.
- 11                   (29) Nonresident fishing services licenses
- 12                               (A) Nonresident sport fishing operator license ..... 400
- 13                               (B) Nonresident sport fishing guide license ..... 200
- 14                               (C) Nonresident sport fishing operator and guide combined

license ..... 400.

\* **Sec. 2.** AS 16.40 is amended by adding new sections to read:

**Sec. 16.40.262. Sport fishing operator license.** (a) The department shall issue an annual sport fishing operator license to a person who

(1) holds a current business license under AS 43.70 to provide services to sport fishermen;

(2) presents proof satisfactory to the department of a general liability insurance policy or marine protection and indemnity insurance policy, covering the services provided by the person and the person's employees to sport fishermen; the liability insurance or marine protection and indemnity insurance must be in the amount of at least \$100,000 for each incident and \$300,000 for all incidents in a year;

(3) pays the license fee prescribed by AS 16.05.340(a); and

(4) satisfies all additional requirements adopted in regulation by the Board of Fisheries.

(b) A person may not provide sport fishing services unless the person is licensed and insured under (a) of this section.

(c) A person licensed under this section may contract to provide sport fishing guide services to a sport fisherman through an employee who holds a current sport fishing guide license under AS 16.40.272.

(d) A person licensed under this section may not directly provide sport fishing guide services to a sport fisherman unless the person is also licensed as a sport fishing guide or holds a combined operator and guide license under AS 16.40.272.

(e) A person licensed as a sport fishing operator may not aid in the commission of a violation of AS 16.05 - AS 16.40 or a regulation adopted under AS 16.05 - AS 16.40, including regulations relating to the proper method to release fish, by a sport fishing guide who is employed by the person or by a sport fisherman who is a client of the person.

(f) In this section, "sport fishing services" means the indirect provision of assistance, for compensation or with the intent to receive compensation, to a person engaged in sport fishing in taking or attempting to take fish or shellfish by a business that employs a sport fishing guide to provide sport fishing guide services to the person

1 during any portion of a sport fishing trip; "sport fishing services" does not include

- 2 (1) an activity for which a sport fishing guide license is required; or  
 3 (2) booking and other ancillary services provided by a tour broker or  
 4 agent to a sport fishing operator.

5 **Sec. 16.40.272. Sport fishing guide license; combined operator and guide**  
 6 **license.** (a) A natural person may obtain an annual sport fishing guide license if the  
 7 person

8 (1) is a citizen of the United States, Canada, or Mexico, or is a resident  
 9 alien;

10 (2) is certified in first aid by the American Red Cross or a similar  
 11 organization;

12 (3) holds a current sport fishing license from the state;

13 (4) pays the license fee prescribed by AS 16.05.340(a); and

14 (5) satisfies all additional requirements adopted in regulation by the  
 15 Board of Fisheries.

16 (b) A natural person may obtain an annual sport fishing operator and guide  
 17 combined license if the person satisfies the requirements for a sport fishing operator  
 18 license under AS 16.40.262 and for a license under this section and pays the license  
 19 fee prescribed by AS 16.05.340(a).

20 (c) A person may not provide sport fishing guide services unless the person

21 (1) holds a current sport fishing guide license under (a) or (b) of this  
 22 section; and

23 (2) holds, or is an employee of a person who holds, a current sport  
 24 fishing operator license under AS 16.40.262 or (b) of this section.

25 (d) A sport fishing guide may provide sport fishing guide services only to  
 26 persons who have engaged the services of the sport fishing operator who employs the  
 27 sport fishing guide. A sport fishing guide may not contract directly with a person to  
 28 provide sport fishing guide services unless the guide also holds a current sport fishing  
 29 operator license.

30 (e) While providing sport fishing guide services, a guide shall have readily  
 31 available for inspection

1 (1) a current license issued under AS 16.05.340(a)(28)(B) or (C) or  
2 16.05.340(a)(29)(B) or (C);

3 (2) the current licenses, tags, and permits required to engage in the  
4 sport fishery for which the sport fishing guide is providing services;

5 (3) a driver's license or valid government-issued photographic  
6 identification card; and

7 (4) proof of

8 (A) employment as a sport fishing guide by a person who holds  
9 a current license under AS 16.05.340(a)(28)(A) or (C) or 16.05.340(a)(29)(A)  
10 or (C); or

11 (B) current licensure under AS 16.05.340(a)(28)(A) or (C) or  
12 16.05.340(a)(29)(A) or (C).

13 (f) A sport fishing guide may not

14 (1) aid in the commission of a violation of AS 16.05 - AS 16.40 or a  
15 regulation adopted under AS 16.05 - AS 16.40 by a client of the guide; or

16 (2) permit a client to commit a violation of AS 16.05 - AS 16.40 or a  
17 regulation adopted under AS 16.05 - AS 16.40 that the guide knows or reasonably  
18 believes is being or will be committed without

19 (A) attempting to prevent it, short of using force; and

20 (B) reporting the violation.

21 **Sec. 16.40.282. Reports.** (a) The department may collect information from  
22 sport fishing guides, including

23 (1) the name and license number of each vessel licensed under  
24 AS 16.05.490 that is used in providing sport fishing guide services;

25 (2) the amount of fishing effort, catch, and harvest by clients of a sport  
26 fishing guide;

27 (3) the locations fished during the provision of sport fishing guide  
28 services; and

29 (4) other information that the department or board requires by  
30 regulation.

31 (b) The department may limit the information it collects from a sport fishing

1 guide under this section to

- 2 (1) salt water sport fishing guide services;
- 3 (2) fresh water sport fishing guide services; or
- 4 (3) guided sport fishing for certain species.

5 (c) A person who holds a license issued under AS 16.40.262 or 16.40.272  
6 shall comply with the reporting requirements in this section and reporting  
7 requirements adopted in regulation by the department or board.

8 (d) A person who is required to complete reports under this section may not  
9 provide false information or omit material facts in a report.

10 (e) A person who is required to complete reports under this section may not be  
11 issued a new license under AS 16.40.262 or 16.40.272 unless the department has  
12 received all reports required under this section for the preceding year.

13 (f) Information collected under this section is confidential to the extent  
14 provided under AS 16.05.815.

15 (g) The board may adopt regulations under AS 44.62 (Administrative  
16 Procedure Act) that it considers necessary to implement this section.

17 **Sec. 16.40.292. Penalty.** (a) Except as provided in (b) and (c) of this section, a  
18 person who knowingly violates AS 16.40.262 - 16.40.301 or a regulation adopted  
19 under AS 16.40.262 - 16.40.301 is guilty of a class A misdemeanor. However, this  
20 subsection does not apply to the failure to hold a current business license under  
21 AS 16.40.262(a)(1) as required under AS 43.70.

22 (b) A person who, without any culpable mental state, violates AS 16.40.272(e)  
23 is guilty of a violation.

24 (c) A person who knowingly violates AS 16.40.272(e) or who knowingly fails  
25 to comply with a requirement for timely submission of reports required by a regulation  
26 adopted under AS 16.40.282 is, for a

- 27 (1) first offense in a three-year period, guilty of a violation; and
- 28 (2) second or subsequent offense in a three-year period, guilty of a  
29 class B misdemeanor.

30 (d) In addition to any other penalty provided by law, a court may revoke the  
31 sport fishing guide license of a person who is convicted under (a) or (c)(2) of this

1 section.

2 (e) In this section, "knowingly" has the meaning given in AS 11.81.900(a).

3 **Sec. 16.40.301. Definitions.** In AS 16.40.262 - 16.40.301,

4 (1) "sport fishing guide" means a person who is licensed to provide  
5 sport fishing guide services to persons who are engaged in sport fishing;

6 (2) "sport fishing guide services" means assistance, for compensation  
7 or with the intent to receive compensation, to a sport fisherman to take or to attempt to  
8 take fish by accompanying or physically directing the sport fisherman in sport fishing  
9 activities during any part of a sport fishing trip; "sport fishing guide services" does not  
10 include

11 (A) sport fishing services; or

12 (B) services provided by an assistant, deckhand, or similar  
13 person who works directly under the supervision of and on the same vessel as a  
14 sport fishing guide.

15 \* **Sec. 3.** AS 25.27.244(s)(2) is amended to read:

16 (2) "license"

17 (A) means, except as provided in (B) of this paragraph, a  
18 license, certificate, permit, registration, or other authorization that, at the time  
19 of issuance, will be valid for more than 150 days and that may be acquired  
20 from a state agency to perform an occupation, including the following:

21 (i) license relating to boxing or wrestling under  
22 AS 05.10;

23 (ii) authorization to perform an occupation regulated  
24 under AS 08;

25 (iii) teacher certificate under AS 14.20;

26 (iv) authorization under AS 18.08 to perform  
27 emergency medical services;

28 (v) asbestos worker certification under AS 18.31;

29 (vi) boiler operator's license under AS 18.60.395;

30 (vii) certificate of fitness under AS 18.62;

31 (viii) hazardous painting certification under AS 18.63;

- (ix) security guard license under AS 18.65.400 - 18.65.490;
  - (x) license relating to insurance under AS 21.27;
  - (xi) employment agency permit under AS 23.15.330 - 23.15.520;
  - (xii) registration as a broker-dealer, an agent, an investment adviser, or an investment adviser representative under AS 45.56.300 - 45.56.350;
  - (xiii) certification as a pesticide applicator under AS 46.03.320;
  - (xiv) certification as a storage tank worker or contractor under AS 46.03.375;
  - (xv) certification as a water and wastewater works operator under AS 46.30;
  - (xvi) commercial crewmember fishing license under AS 16.05.480 other than an entry permit or interim-use permit under AS 16.43;
  - (xvii) fish transporter permit under AS 16.05.671;
  - (xviii) **sport fishing operator license under AS 16.40.262;**
  - (xix) sport fishing guide license under AS 16.40.272;**
- [REPEALED]
- (xix) REPEALED]
- (B) does not include
- (i) a vessel license issued under AS 16.05.490 or 16.05.530;
  - (ii) a business license issued under AS 43.70;
  - (iii) an entry permit or interim-use permit issued under AS 16.43; or
  - (iv) a driver's license issued under AS 28.15;

\* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 HARVEST DATA DOCUMENTATION REPORT. (a) The Department of Fish and  
3 Game shall prepare a report proposing solutions for improving sport fishing harvest data  
4 documentation and collection from the saltwater rental and unguided fishing industry.

5 (b) The report must provide consideration and analysis of collection methods used to  
6 collect comparable data by other states and comparable international jurisdictions, including  
7 British Columbia.

8 (c) The commissioner shall submit the report to the senate secretary and chief clerk of  
9 the house of representatives by December 1, 2022, and notify the legislature that the report is  
10 available.

11 \* **Sec. 5.** This Act takes effect January 1, 2022.